

Potential Statutory Clarifications Related to Budget Reserve Accounts

June 14, 2007 Draft

#	Issue	Recommendations/Options
1	<p>Consistent application of the [6%] cap:</p> <p>Utah Code § 63-38-2.5 (2) (a) (i)</p>	<ul style="list-style-type: none"> If intent is establish a target that is a percentage of all General Fund and Education Fund appropriations, amend 63-38-2.5 to use the term "Education Fund" If intent is to have different sized funds, amend 63-38-2.5 to correspond to a percentage of General Fund appropriations and 63-38-2.6 to correspond to a percentage of Education Fund appropriations <p>At the end of any fiscal year in which the Division of Finance, in conjunction with the completion of the annual audit by the state auditor, determines that there is a General Fund surplus, 25% of the surplus shall be transferred to the General Fund Budget Reserve Account, except that the amount in the combined totals of the General Fund and the Budget Reserve Account and the Education Budget Reserve Account created in Section 63-38-2.6 may not exceed 6% of the <i>total combined appropriations from the General Fund and the General Fund</i> for the fiscal year in which the surplus occurred.</p>
2	Does the [6%] cap apply only to end-of-year transfer process or is it a hard cap?	If intent is to create a target, amend statute to clarify that the cap applies only to the end-of-year transfer by the Division of Finance.

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3	When approaching the [6%] automatic transfer cap and the full 25% transfer would exceed the cap, are funds deposited into the General Fund Budget Reserve Account or Education Budget Reserve Account?	<ul style="list-style-type: none"> (a) Leave to discretion of Division of Finance (b) Pro-rate on basis of surplus amount or total appropriation amount in General Fund and Education Fund (c) Education Fund first, then General Fund (or vice versa) (d) Other?
4	If the cap / target is tied to total appropriations, an appropriation into the fund increases the cap / target. Should legislative appropriations into the two budget reserve accounts be included when making the [6%] of appropriations calculation?	If intent is to create a limit /ceiling, may want to consider excluding appropriations to the account from the calculation so that the limit does not increase with appropriations into account.
5	What is the definition of a "surplus"?	Currently, no clear definition exists in statute. Fiscal Analyst will develop options.
6	What is the definition of an "operating deficit"? Is another term more appropriate? Currently, a statutory definition exists in other sections of code, but technically only defined for purposes of those sections.	Fiscal Analyst will develop options.
	63-38-36. Appropriating from restricted accounts. (1) As used in this section, "operating deficit" means that estimated General Fund or Uniform School Fund revenues are less than budgeted for the current or next fiscal year	
	63A-5-104. Capital development and capital improvement process -- Approval requirements -- Limitations on new projects -- Emergencies.(6) (b) (i) As used in this Subsection (6)(b), "operating deficit" means that estimated General Fund or Uniform School Fund revenues are less than budgeted for the current or next fiscal year.	
	Note: May also need to address "Uniform School Fund" v. "Education Fund" issue in these sections.	
7	The Uniform School Fund receives some funds from sources other than the Education Fund. If an automatic surplus transfer remains, should year-end balances from these other sources be counted in setting the cap/target or in the definition of a "surplus"?	
8	Should the process for repayment of withdrawn funds be changed or clarified [see 63-38-2.5(2)(a)(ii) and 63-38-2.6(2)(a)(ii)]? How does / should repayment interact with the [6%] cap?	Count all legislative appropriations as "repayment"